

FILED
08 APR -2 PM 3:05
CLERK OF U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 **Mark Antoine Foster, In Pro Per**
2 **200 Corpus Cristie Road #A**
3 **Alameda, California 94502**
4 **(415) 756-1611**
5 **(619) 646-3564**

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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11
12 Case No. **C-08- 01337 MHP**

13 **MARK ANTOINE FOSTER,**

14 **Plaintiff,**

15 **vs.**

16 **MORGAN LEWIS & BOKIUS LLP**
17 **And ERIC MECKLEY, as an**
18 **Individual, and DOES 1 through 81**

19 **Defendants**

PLAINTIFF'S NOTICE OF MOTION
AND MOTION TO DISMISS MAIL
FRAUD, WIRE FRAUD AND
CONSPIRACY TO MAIL FRAUD
CLAIMS, AFTER ANSWER WITHOUT
COUNTER CLAIM; MEMO OF PTS
& AUTHORITIES; DECLARATION OF
MARK AND FOSTER; PROPOSED
ORDER IN SUPPORT THEREOF
[FED R. CIV PRO, 41(a)(2)]

20 **Date: May 12, 2008**

21 **Time: 2:00 p.m.**

22 **TO DEFENDANTS ARAMARK SPORTS AND ENTERTAINMENT, YING KEE**
23 **MCVICKER, AN INDIVIDUAL AND MATTHEW LEE, AN INDIVIDUAL.**

24 **PLEASE TAKE NOTICE THAT ON May 12, 2008 at 2:00pm, or as soon thereafter as**
25 **the matter may be heard in the above titled court, located at 450 Golden Gate Ave, San**
Francisco, California, Plaintiff MARK ANTOINE FOSTER will move this court for an order

PLAINTIFF'S NOTICE OF MOTION AND MOTION TO DISMISS MAIL FRAUD, WIRE
FRAUD AND CONSPIRACY TO MAIL FRAUD CLAIMS

C- 08-01337 MHP

1 dismissing his mail fraud, wire fraud and conspiracy to mail fraud claims.

2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 This motion is made on the ground that plaintiff has a statutory right to dismiss his these
4 claims and Plaintiff wants to pursue his claims solely in state court and seeks remedy exclusively
5 from the state for his remaining state law causes of action, and because Plaintiff does not have a
6 private right of action for theses claims and also because the attorney general's office is the only
7 party authorized to bring these claims.

8 Plaintiff moves the court, pursuant to Rule 41(a) (2) of the Federal Rules of Civil
9 Procedure, for an order dismissing his mail fraud, wire fraud and conspiracy to mail fraud claims
10 or actions without prejudice and on such terms and conditions as the court deems proper.
11 Defendant filed an answer on March [✓], 2008, but made no counterclaim against Plaintiff and
12 would not suffer substantial prejudice by the dismissal of this action.

13 Date: April 2, 2008

Mark A. Foster
Mark Antoine Foster, In Pro Per